# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/674,706 | 11/06/2000 | Robert J Briscoe | 36-1384 | 3584 |

7590          08/06/2004

Nixon & Vanderhye
1100 North Glebe Road 8th Floor
Arlington, VA 22201-4714

| EXAMINER |
|---|
| COLBERT, ELLA |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3624 | |

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/674,706 | BRISCOE ET AL. |
| | Examiner | Art Unit | |
| | Ella Colbert | 3624 | *MK* |

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on _07 January 2004_.
2a)☐ This action is **FINAL**.    2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) _1,4-25,29,30,32,33 and 39_ is/are pending in the application.
   4a) Of the above claim(s) _26-28_ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1,4-25,29,30,32,33 and 39_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All  b)☐ Some * c)☐ None of:
   1.☐ Certified copies of the priority documents have been received.
   2.☐ Certified copies of the priority documents have been received in Application No. _____.
   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

## DETAILED ACTION

1.      Claims 1, 4-25, 29, 30, 32, 33, and 39 are pending in this communication filed

05/06/04 entered as Election/Restriction.  Applicants' election of Group I, claims 1, 4-25,

29, 30, 32, 33, and 39 without traverse is acknowledged.  Claims 26-28 have been

withdrawn from election and will not be examined.

2.      Applicants' submitted drawing is acknowledged.  However, Applicants' drawings

are objected to for the reasons here below.

3.      As a preliminary matter:  Applicants' are requested to submit the references for

consideration which were not found with the file:  Page 1, **British Patent Application**

**no. 9812161.9 filed 5 June 1998** and page 6 **"Communications Network", BT**

**reference A 25793**.

### *Specification*

4.      The Specification is objected to because The Specification should have

application 09/674,706 on each page in the upper right corner or application 09/674,706

in the upper right corner of the first page and the attorney docket number on each page

thereafter in the upper right corner.  Correction is required.  See MPEP § 608.01(b).

5.      The following guidelines illustrate the preferred layout for the specification of a
utility application.  These guidelines are suggested for the applicant's use.

### Arrangement of the Specification

6.      As provided in 37 CFR 1.77(b), the specification of a utility application should
include the following sections in order.  Each of the lettered items should appear in
upper case, without underlining or bold type, as a section heading.  If no text follows the
section heading, the phrase "Not Applicable" should follow the section heading:

    (a) TITLE OF THE INVENTION.
    (b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR
DEVELOPMENT.

(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A
COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer
program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)),
and tables having more than 50 pages of text are permitted to be
submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).
"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.
(1) Field of the Invention.
(2) Description of Related Art including information disclosed under 37
CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A
"Sequence Listing" is required on paper if the application discloses a
nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if
the required "Sequence Listing" is not submitted as an electronic
document on compact disc).

### Content of Specification

7.    (a)    Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of
the invention should be placed at the top of the first page of the specification unless the
title is provided in an application data sheet. The title of the invention should be brief
but technically accurate and descriptive, preferably from two to seven words may not
contain more than 500 characters.

    (b)    Cross-References to Related Applications: See 37 CFR 1.78 and MPEP
           § 201.11.

    (c)    Statement Regarding Federally Sponsored Research and Development:
           See MPEP § 310.

    (d)    Incorporation-By-Reference Of Material Submitted On a Compact Disc:
           The specification is required to include an incorporation-by-reference of
           electronic documents that are to become part of the permanent United
           States Patent and Trademark Office records in the file of a patent
           application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer
           program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)),

and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

(e)    Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

      (1)    Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

      (2)    Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

(f)    Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(g)    Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(h)    Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention

described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(i)     Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

(j)     Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(k)     Sequence Listing, See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

8.     The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re*

*Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d

577, 179 USPQ 167 (CCPA 1973).

9.      A substitute specification in proper idiomatic English and in compliance with 37

CFR 1.52(a) and (b) is required.  The substitute specification filed must be accompanied

by a statement that it contains no new matter.

10.     Page 2, line 5 recites "service network packet network in which it is not

necessary to police every".  "Service network packet network" is redundant language.

This line would be better read "service packet network".  Page 2, line 23 reads "of

sampling part only of the traffic communicated ...".  This line would be better read "of

sampling only part of the traffic communicated ...".  **It is not clear from reading**

**Applicants' Specification what Applicants' mean by "idempotent" and**

**"idempotency" on page 9, line 26.  Correction and clarification is requested.**

11.     The following figure elements were not found as being described in Applicants'

Specification: Figure 2a "Price P" and "Quality Q"; Figure 2b, element "Premium P" and

Congestion C"; Figure 4, elements g, h, and I; Figure 3a and figure 3b were not found

as being described in the Specification; Figure 9, elements 100, 46, 3, 7, 44, 7, and 93

were not described in relation to this drawing figure; Figure 10, elements (100, 51, 44,

49, 46, 2, 3, 7, 91-93) not described in specification; Figure 11, elements Ne and Nd

were not found as being described in Applicants' specification: Figure 12 and Figure 13

have a similar problem.  These are some of the errors in Applicants' Specification.  The

Applicants' are respectfully requested to check for other errors in spelling, grammar,

and punctuation.

Applicants' Specification is not in agreement with the drawings. Applicants' are

respectfully requested to submit a corrected Specification.

## Abstract

12.    This application does not contain an abstract of the disclosure as required by 37

CFR 1.72(b). An abstract on a separate sheet is required.

Applicant is reminded of the proper language and format for an abstract of the
disclosure.

The abstract should be in narrative form and generally limited to a single
paragraph on a separate sheet within the range of 50 to 150 words. It is important that
the abstract not exceed 150 words in length since the space provided for the abstract
on the computer tape used by the printer is limited. The form and legal phraseology
often used in patent claims, such as "means" and "said," should be avoided. The
abstract should describe the disclosure sufficiently to assist readers in deciding whether
there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information
given in the title. It should avoid using phrases which can be implied, such as, "The
disclosure concerns," "The disclosure defined by this invention," "The disclosure
describes," etc.

## Drawings

13.    The drawings are objected to under 37 CFR 1.83(a) because they fail to show in

the following figures: Figure 1, element 6; Figure 2a, "Customer", Price $P_{rc,}$ QoS

Manager, "edge neteork", "Session control object s", "Customer bus. Rules object $B_{c,}$

Customer accounting object Actc, and Customer measurement object M; Figure 8,

elements trunk exchanges 3, signaling system number 7, 85, 86, gateway 87, mobile

phones 89, and GSM Network 88; Figure 10, element "Management Platforms 10" as

described in the specification. Any structural detail that is essential for a proper

understanding of the disclosed invention should be shown in the drawing. MPEP §

608.02(d).  Corrected drawing sheets are required in reply to the Office action to avoid

abandonment of the application.  Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended.  The figure or figure number of an amended drawing

should not be labeled as "amended."  If a drawing figure is to be canceled, the

appropriate figure must be removed from the replacement sheet, and where necessary,

the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency.  Additional replacement

sheets may be necessary to show the renumbering of the remaining figures.  The

replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as

per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures.  If the

changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action.  The objection to the drawings

will not be held in abeyance.

### *Claim Objections*

14.     Claims 16 and 30 are objected to because of the following informalities: Claim 16

reads "... connected to the customer terminal, ... accounting object in the first domain;".

This claim would be better read "... connected to the customer terminal; ... accounting

object in the first domain; and".  Claim 30 reads "... including penalising a customer

when a  ...".  This claim limitation would be better read "... including penalizing a

customer when a  ...".  Appropriate correction is required.

## *Claim Rejections - 35 USC § 112*

15.     The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

16.     Claims 1 (c ), 10, 18, 19, 22, 24,  and 29 are rejected under 35 U.S.C. 112,

second paragraph, as being indefinite for failing to particularly point out and distinctly

claim the subject matter which applicant regards as the invention.  Claim 1 (c ) reads

sampling usage of the network resources by at least one of the customer terminals by

measuring a portion of the usage only by the at least one of the customer terminals and

comparing this measurement, with respect to the sampled usage, with one or both of

the usage of network resources measured by the at least one customer terminal ...".

This claim limitation is very confusing and unclear.  It is not understood what Applicants'

are trying to claim in this claim limitation.  Claim 10 reads "A method according to claim

7, wherein sampling the usage is carried out by a network operator and comprises

sampling part only of the traffic communicated between a customer terminal and the

network and, for the sampled traffic, further comprises comparing the sampled network

usage ...".  This claim has a similar problem as above claim 1.  Claim 29 reads

        Claim 19  reads "... measuring both packets ...".  This claim limitation is unclear.

It is not understood what Applicants mean by "measuring both packets".  What are the

both packets that are being measured?  Do Applicants' mean "data packets" or

"message packets" or "IP packets" being measured as they are received by the

customer terminal and sent by the customer terminal"?  Clarification in the claim

language is requested.  Claims 18 and 24 have a similar problem.

Claim 22 reads "A method according to claim 1, including transmitting packets

on the network with a plurality of different classes of service." It is unclear whether

Applicant's mean "transmitting data packets" or "transmitting message packets" or

"transmitting IP packets". Clarification in the claim language is requested.

Claim 29 (a) and (b) read "establishing a data flow from an originating customer

connected to the network to at least one destination customer connected to the or each

network; (b) communicating tariff data from the or each network operator to a clearing

entity;". These limitations are very vague and unclear. Do Applicants' mean

"establishing data flow from an originating customer connected to the network to at least

one destination customer connected to the network; (b) communicating tariff data from

each network operator to a clearing entity;" or "establishing data flow from an originating

customer connected to the network or to at least one destination customer connected to

the network; (b) communicating tariff data from each network operator or to a clearing

entity;"? Clarification in the claim language is requested.


### Claim Rejections - 35 USC § 102

17.    The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed
> publication in this or a foreign country, before the invention thereof by the applicant for a patent.

18.    Claims 1-20 and 29, 30, and 32-39 are rejected under 35 U.S.C. 102(a) as being

anticipated by (US 6,446,200) Ball et al, hereafter Ball.

As per claim 1, Ball teaches, A method of operating a communications network comprising: a)measuring at each of a plurality of customer terminals usage by the respective customer terminal of network resources (col. 8, lines 1-25 and Fig. 6);

b)        subsequently calculating a network usage charge from the measurement data generated by step (a) (col. 8, lines 26-63, col. 10, lines 50-67, col. 11, lines 1-17, and Fig. 7); and c) sampling usage of the network resources by at least one of the customer terminals by measuring a portion of the usage only by the at least one of the customer terminals and comparing this measurement, with respect to the sampled usage, with one or both of the usage of network resources measured by the at least one customer terminal in step (a) and the network usage charge calculated in step (b) (col. 12, lines 43-65, col. 15, lines 33-39, col. 32, lines 28-34, and col. 33, lines 2-5).

As per claim 4, Ball teaches, A method according to claim I, further comprising a step of aggregating measurement data produced by a series of measurements at a respective customer terminal (col. 31, lines 39-67 and col. 32, lines 1-27).

As per claim 5, Ball teaches, A method according to claim I, further comprising storing the measurement data (col. 8, lines 6-24).

As per claim 6, Ball teaches, A method according to claim 5, including storing with the measurement data identifying a tariff applicable to the said measurement data (col. 9, lines 64-67 and col. 10, lines 1-11).

As per claim 7, Ball teaches, A method according to claim 1 including communicating data generated by step (a) to a network accounting object controlled by a network operator (col. 11, lines 23-39).

As per claim 8, Ball teaches, A method according to claim 7, including communicating to the network accounting object a usage charge calculated from the measurement data (col. 13, lines 27-46).

As per claim 9, Ball teaches, A method according to claim 1, including communicating measurement data to a system remote from the customer terminal (col. 13, lines 47-67 and col. 14, lines 1-17).

As per claim 10, Ball teaches, A method according to claim 7, wherein sampling the usage is carried out by a network operator and comprises sampling part only of the traffic communicated between a customer terminal and the network and, for the sampled traffic, further comprises comparing the sampled network usage with data communicated from the customer terminal to the network accounting object and thereby detecting any discrepancy (col. 14, lines 59-67, col. 15, lines 1-49, col. 16, lines 59-67, col. 17, lines 1-37, and col. 19, lines 37-58).

As per claim 11, Ball teaches, A method according to claim 1 in which a network accounting object is configurable to receive data from a measurement object controlled by a network operator or from a customer terminal (col. 22, lines 31-67 and col. 23, lines 1-18).

As per claim 12, Ball teaches, A method according to claim 11, in which a customer accounting object associated with the customer terminal is configurable to direct data to the network accounting object (col. 10, lines 40-60).

As per claim 13, Ball teaches, A method according to claim 11, including switching the network accounting object from a first configuration in which data is

received from the said measurement object and another configuration in which data is received from the customer terminal in response to a control signal received at the network accounting object (col. 10, lines 61-67, col. 11, lines 1-17, col. 22, lines 32-43, and col. 25, lines 16-32).

As per claim 14, Ball teaches, A method according to claim 1 further comprising communicating a tariff to each of the customer terminals, and calculating at each of the terminals from the tariff and from accounting data the network usage charge (col. 15, lines 33-49).

As per claim 15, Ball teaches, A method according to claim 1 in which the communications network is a federated data network comprising a plurality of network domains (col. 3, lines 31-65 and col. 12, lines 1-7)

As per claim 16, Ball teaches, A method according to claim 15 including communicating traffic between a customer terminal and a first network domain connected to the customer terminal, further communicating the said traffic between the first network domain and a second network domain connected to the first network domain (col. 24, lines 5-11); communicating network usage data from the customer terminal to a first network accounting object in the first domain (col. 24, lines 24-36); and communicating accounting data between the first network accounting object and a second network accounting object in the second domain (col. 22, lines 52-67, col. 23, lines 1-18, and col. 24, lines 12-23).

As per claim 17, Ball teaches, A method according to claim 16, including determining from a current routing table in the first network domain the identity of a

second domain, which second domain is communicating data with the customer

terminal via the first network domain, and communicating network usage data for the

customer terminal to the second domain identified by the current routing table (col. 23,

lines 26-67 and col. 24, lines 1-3).

As per claim 18,  Ball teaches, A method according to claim 1 in which the step

of measuring includes counting the quantity of data communicated in packets

transmitted between the customer terminal and the communications network (col. 29,

lines 7-15).

As per claim 19,  Ball teaches, A method according to claim 18, including

measuring both packets received by the customer terminal and packets sent by the

customer terminal (col. 30, lines 30-65).

As per claim 20,  Ball teaches, A method according to claim 1, in which a

payment for network usage is made to a third-party clearer (col. 5, lines 57-65 and col.

6, lines 1-5).

As per claim 29,  Ball teaches, A method of operating a communications network

including: (a) establishing a data flow from an originating customer connected to the

network to at least one destination customer connected to the or each network (col. 2,

lines 5-13, fig. 3 (106 and 107) and fig. 4 (100)); (b)communicating tariff data from the or

each network operator to a clearing entity (col. 6, lines 32-52); (c) communicating tariff

data for end-to-end flow from the clearing entity to at least one of the originating and

destination customers (col. 6, 54-65);  (d) measuring the quantity of data flowing from

the originating customer into the network and the quantity of data flowing out of the

network to the destination customer (col. 5, lines 57-65 and col. 6, lines 1-11);

(e)communicating measurement data generated by step d to the clearing entity (col. 7,

lines 3-16); (f) at the clearing entity calculating a charge from the measurement data

and the tariff (col. 7, 26-59); (g)    making a payment from the clearing entity to the

network operator in accordance with the calculated charge (col. 8, lines 13-32); and

(h)    communicating a bill in accordance with the end-to-end tariff from the clearing

entity to at least one of the originating customer and the destination customer (col. 11,

lines 3-22).

As per claim 30,  Ball teaches, A method according to claim 10 including

penalizing a customer when a discrepancy is detected (col. 19, lines 51-58).

As per claim 32,  Ball teaches, A communications network arranged to operate

by a method according to claim 1 (col. 1, lines 7-14).

As per claim 33,  Ball teaches, A communications network arranged to operate

by a method according to claim 1 (col. 5, lines 35-38).

As per claim 39,  Ball teaches, A method according to claim 25, in which the

policing by the customer is randomly audited concurrently with, or subsequently to, the

respective data flow (col. 6, lines 43-52).

19.    Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

(US 6,446,200) Ball et al, hereafter Ball in view of (US 5,978,456) Takeuchi et al,

hereafter Takeuchi.

As per claim 21,  Ball failed to teach, A method according to claim 1, including

automatically varying a tariff for network usage in dependence on loading of the

network, and calculating a charge for network usage by applying the tariff to the

measurement data. Takeuchi teaches, including automatically varying a tariff for

network usage in dependence on loading of the network, and calculating a charge for

network usage by applying the tariff to the measurement data (col. 2, lines 45-67 –

(charge/tariff), col. 3, lines 36-67, and col. 4, lines 1-15 –performing a calculation). It

would have been obvious to one having ordinary skill in the art at the time the invention

was made to automatically vary a tariff for network usage in dependence on loading of

the network, and calculating a charge fro network usage by applying the tariff to the

measurement data and to modify in Ball because such a modification would allow Ball

to determine a charging price according to the price (tariff) information obtained as a

response to an inquire using parameters of a location on a relay network owned by a

charging network as another communication network for charging a price (tariff) for

usage.

As per claim 22,  Ball teaches, A method according to claim 1, including

transmitting packets on the network with a plurality of different classes of service (col.

13, lines 20-36 and col. 25, lines 1-15).

As per claim 23,  Ball teaches, A method according to claim 22, including passing

the said packets through a packet router, and in the packet router determining the

classes of service applicable to the packets, and scheduling packets differently

depending on the respective class of service (col. 26, lines 5-27)

As per claim 24,  Ball teaches, A method according to claim 23, in which a step

of policing the classification of packets to determine the eligibility of a packet for a

respective class of service is carried out at a location remote from the router (col. 26,

lines 48-63 and Figure 14 (322).

As per claim 25, Ball teaches, A method according to claim 24, in which the step

of policing is carried out at a customer terminal (Fig. 16 (430) and Fig. 17 (450).

### Conclusion

20.    The prior art made of record and not relied upon is considered pertinent to

Applicants' disclosure.

Bullard (US 6,625,657) disclosed network accounting and aggregating data from

the network entities.

### Inquiries

21.    Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ella Colbert whose telephone number is 703-308-7064.

The examiner can normally be reached on Monday-Thursday from 6:30 am -5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/E. Colbert

~~July 26,~~ 2004
August 2